



MEMO ENDORSED

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

October 13, 2023

**Via ECF**

Hon. Kenneth M. Karas  
United States District Judge  
Southern District of New York  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: Peale v. Nigrelli, 23 CV 2292 (KMK)

Dear Judge Karas:

This office represents Dominick L. Chiumento, in his official capacity as Acting Superintendent of the New York State Police. I write to request that Superintendent Chiumento be substituted as a defendant for his predecessor, Steven A. Nigrelli, pursuant to Federal Rule of Civil Procedure 25(d).

Acting Superintendent Nigrelli, the current defendant in this action, resigned from government service effective October 6, 2023. Although Plaintiff initially named the State of New York as the only defendant, the Court dismissed the Complaint and substituted Acting Superintendent Nigrelli as the defendant. (Dkt. No. 4 at pp. 2-3). Plaintiff appears to be suing Acting Superintendent Nigrelli solely in his official capacity, and as such, the substitution of Acting Superintendent Chiumento takes place “automatically.” Fed. R. Civ. P. 25(d); *see Williams v. Annucci*, 895 F.3d 180, 187 (2d Cir. 2018). We request that the case caption be amended to reflect Superintendent Chiumento stepping into the role and that the substitution be without prejudice to any defenses that Defendant Chiumento may seek to assert.

We thank the Court for its time and consideration of this request.

Respectfully submitted,  
/s/ S. Cynthia Luo  
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CC: Peter Peale, Plaintiff *pro se* (Via ECF)

For the reasons stated in the Court's Memo Endorsement dated November 15, 2023, (*see* Dkt. No. 15), Defendant's request in this letter is granted. Acting New York State Police Superintendent Dominick L. Chiumento has been automatically substituted for former Acting New York State Police Superintendent Steven A Nigrelli as Defendant in this Action pursuant to Federal Rule of Civil Procedure 25(d). The Clerk of Court is respectfully directed to update the docket accordingly, terminate the pending Motion, (*see* Dkt. No. 13), and mail a copy of this document to Plaintiff.



3/28/2024